

**INTERNATIONAL BOUNDARY AND WATER COMMISSION  
UNITED STATES AND MEXICO**

**El Paso, Texas  
October 26, 2000**

**Minute No. 304**

**JOINT GRANT CONTRIBUTION PROGRAM FOR DRINKING  
WATER AND WASTEWATER INFRASTRUCTURE PROJECTS  
FOR COMMUNITIES IN THE UNITED STATES - MEXICO BORDER AREA**

The Commission met in the offices of the United States Section in El Paso, Texas at 1:00 p.m. on October 26, 2000, to analyze the mutual intent of the United States Environmental Protection Agency (EPA) through its Office of Water and Mexico's Secretariat of Environment, Natural Resources and Fisheries (SEMARNAP) through its National Water Commission (CNA) for a coordination program of joint grant contributions for drinking water and wastewater infrastructure projects for communities in the United States - Mexico border area. The analysis considered whether this program complements the efforts of the Commission in application of Article 3 of the "Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944, concerning the solution of border sanitation problems. Concerning the joint use of international waters, the Treaty establishes that the following order of preferences shall serve as a guide: 1) domestic and municipal uses, 2) agriculture and stockraising, 3) electric power, 4) other industrial uses, 5) navigation, 6) fishing and hunting, and 7) any other beneficial uses which may be determined by the Commission.

The Commissioners noted the responsibility charged to the Commission in Minute No. 261 entitled, "Recommendations for the Solution to the Border Sanitation Problems," dated September 24, 1979, to discharge the referenced Treaty Article 3 obligation to give preferential attention to border sanitation problems defined as "each case in which, in the judgement of the Commission, the waters that cross the border, including coastal waters, or flow in the limitrophe reaches of the Rio Grande and the Colorado River, have sanitary conditions that present a hazard to the health and well-being of the inhabitants of either side of the border or impair the beneficial uses of these waters." They noted Recommendation 3 of Minute No. 261 whereby "to resolve existing sanitation problem in a timely manner and to prevent future problems, the competent agencies of each Government provide to their respective Section of the Commission the information and technical advice that it requires."

The Commissioners evaluated the experience of the United States and Mexico in the development of projects for certification by the Border Environment Cooperation Commission (BECC) under the terms of Commission Minute No. 294, entitled: "Facilities Planning Program for the Solution of Border Sanitation Problems," dated November 24, 1995. They also reviewed their experience as ex officio directors of the BECC, along with the United States EPA and SEMARNAP. They noted the need to consider short, medium and long terms credit and grant components for the implementation of water and wastewater infrastructure projects in Mexico's border area communities. In this context, they observed that the EPA and CNA, the latter acting for SEMARNAP, have made funds available to enable some short term construction of water and wastewater infrastructure projects and recognized the need to obtain funding for additional construction for at least 16 years.

The Commissioners then studied the "Memorandum of Understanding Concerning the Program of Joint Grants Contributions for Drinking Water Supply and Wastewater Infrastructure Projects for Communities in the United States-Mexico Border Area" dated September 25, 2000, a signed original of which is attached to this Minute. The Commissioners observed that the grant contributions program could support projects that are certified by the BECC for possible financing through the North American

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Development Bank (NADB). They also noted that the funds provided by the EPA, deposited in the Border Environmental Infrastructure Fund (BEIF) and managed by the NADB, may be used in the United States or in Mexico for projects that are certified by the BECC and under eligibility requirements established by the EPA. In case of the latter, the BEIF may supplement funds equal to that amount of subsidy components contributed by Mexico. The Commissioners also observed that CNA is the liaison that will arrange for Mexico's financial participation on behalf of Mexico's federal government, the states and municipalities, as well as the water operating organizations as necessary for this purpose, in furtherance of operating rules, existing appropriations request practices, and coordination. Finally, they noted that the CNA funds may only be used in Mexico.

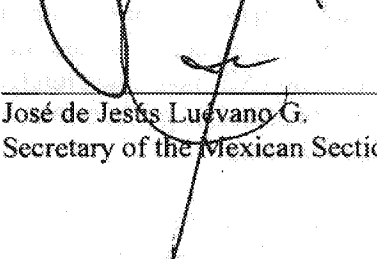
The Commissioners then made note of the stipulation in the attached memorandum whereby the EPA and the CNA will keep the Commission informed of the progress of the grants contributions program. They reviewed those projects for the solution of border sanitation problems under Minute 261, as may be financed under the referenced program and concluded that provision of the infrastructure construction grant contributions envisioned by the EPA and CNA and Mexican agencies in a 16 year period would in part complement the priority attention given by the Commission towards the solution of border sanitation problems.

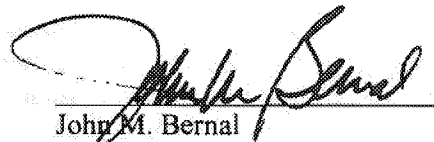
Based on the above, the Commissioners submit the following recommendation for the approval of the two Governments:

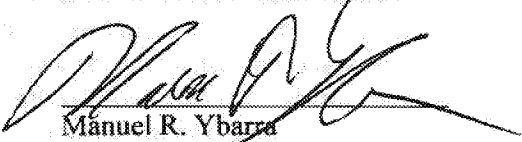
That the "Memorandum of Understanding Concerning the Program of Joint Grant Contributions for Drinking Water Supply and Wastewater Infrastructure Projects for Communities in the United States - Mexico Border Area," signed on September 25, 2000, by the United States Environmental Protection Agency through its Office of Water and Mexico's Secretariat of Environment, Natural Resources and Fisheries through its National Water Commission be considered as complementary to the Commission's on-going efforts to give preferential attention to the solution of sanitation problems in the border waters.

The meeting was adjourned.

  
J. Arturo Herrera Sotís  
Commissioner for Mexico

  
José de Jesús Luevano G.  
Secretary of the Mexican Section

  
John M. Bernal  
United States Commissioner

  
Manuel R. Ybarra  
Secretary of the U.S. Section

September 25, 2000

**MEMORANDUM OF UNDERSTANDING  
CONCERNING THE  
PROGRAM OF JOINT GRANT CONTRIBUTIONS FOR DRINKING  
WATER SUPPLY AND WASTEWATER INFRASTRUCTURE PROJECTS  
FOR COMMUNITIES IN THE UNITED STATES - MEXICO BORDER AREA**

The United States Environmental Protection Agency through its Office of Water (EPA) and Mexico's Secretariat of Environment, Natural Resources and Fisheries (SEMARNAP) through the National Water Commission (CNA) intend to carry out a program of joint grant contributions for drinking water and wastewater system infrastructure projects for communities in the United States - Mexico border area. The grant contributions program would support the implementation of drinking water and wastewater environmental infrastructure projects that are certified by the Border Environment Cooperation Commission (BECC) for possible financing through the North American Development Bank (NADB).

The agencies undersigned observed from their respective participation in the Minute 294 program, the BECC's Project Development Assistance Program (PDAP), along with forecasts prepared by the BECC and the NADB, that funding needs have been identified and quantified for projects that address drinking water and wastewater infrastructure for the short term (0 to 3 years), medium term (3 to 6 years) and long term (6 to 16 years). The needs assessment includes a potential mix of financial resources, including credit and grant components, necessary to construct the projects in the time frames identified. Finally, the agencies noted from past participation in water and sanitation infrastructure project development that the many border communities lack the capacity to obtain loans and require significant non-reimbursable financial assistance to cover the high capital costs. The EPA provides this type of financial assistance in the form of the Border Environmental Infrastructure Fund (BEIF), which is managed by the NADB. CNA is the liaison that will arrange Mexico's financial participation on behalf of Mexico's federal government, the states and municipalities, as well as the water operating organizations necessary for this purpose, in furtherance of operating rules, existing appropriations request practices, and coordination.

The agencies noted that while funding has been made available to enable some short term construction, the performance of further construction in the medium and long terms will extend for an additional 16 years.

The agencies have developed guidelines and procedures for the use of the non-reimbursable funds. The funds are provided by the EPA through the BEIF and may be used in the United States or in Mexico for projects that are certified by the BECC and under eligibility requirements that are established by the EPA. The Mexican funds will be used only in Mexico. In the case of projects in Mexico, the BEIF may supplement funds equal to that amount of grant components contributed by Mexico. EPA and the CNA intend to:


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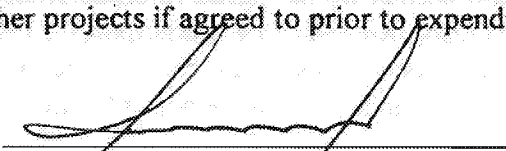
- a) Contribute funds to support development of a water and wastewater infrastructure program in Mexico, in an area within 100 km from the border between the two countries, in a planning time frame of 16 years, subject to availability of appropriation funds and applicable practices of the United States and Mexico.
- b) Seek to incorporate funds, following applicable practices for seeking of appropriations to fund a capital costs program for the following year. In the case of Mexico, apply these terms based on availability of appropriated funds under the terms of coordination agreements between the federal government and federal and state governments, and operating agencies once these are authorized by the federal and state legislatures and the corresponding municipal authorities in order to provide continuity to the projects.
- c) Prioritize development of projects for which Mexican funds may be used provided that:
  - i Immediate need projects fulfill the EPA project eligibility criteria, except for BECC certification.
  - ii Master plans as developed in Mexican communities are directed to immediate needs, medium and long term needs of the community.
- d) Hold annual meetings in the third quarter of each year, in which the participants should determine the funding priority the next year. In the case of Mexico, these programs should conform to the corresponding authorization, based on the budget process in effect. Likewise, EPA and CNA should meet annually during the first quarter of each year in order to submit a report of the allocations authorized for the process, as well as those completions or the results of the process from the previous year. The outcomes of the above mentioned meetings should be brought to attention of the BECC, NADB, International Boundary and Water Commission (IBWC) and other parties interested in the program.
- e) Effect their respective investments according to their own budget schedules, but not necessarily simultaneously with that of the other agency, such that a balance is not necessary in a given year. However, the status of the balance and projections to the future should be reviewed and determined at the semiannual meetings between CNA and EPA.
- f) Keep, in accordance to BEIF procedures, a systematic record of the annual grant contributions, an escalation or updating of investments, as well as the criterion for peso-dollar parity, in order to maintain the accounting of contributions by each country and the matching of contributions so that, at the end of the program planning or implementation period, investments between both countries defined as grants are according to the agreement, matching at the border area level.
- g) Establish details for each particular project within the project planning and development framework of BECC and NADB and in accordance with procedures set up for that purpose.

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In every case there should be participation by EPA, CNA, BECC and the NADB, and where appropriate the IBWC, and, if pertinent, participation by the concerned state and municipal governments as well as the operating organization.

- h) The CNA is to be the liaison in each project to coordinate Mexico's financial participation on the part of the federal government, state, municipality or operating organization, as appropriate, following for this purpose the operating rules, current budget process and the coordination agreements between the states and the federal government.
- i) The EPA is to make the best effort to seek funding, subject to the United States appropriations process, to allow for contributions up to 50% of the grant component for their design and construction under the following conditions, once water and wastewater projects in Mexico are identified:
  - i The contribution by each country cannot be applied to projects that are not in the program agreed upon.
  - ii The contribution by Mexico may come from federal, state or local sources, but not from debt financing or funds from non-governmental sources. This contribution will be recognized beginning in 1996.
  - iii Either participant may contribute more than 50% for a project, if the other increases its percentage afterwards in other projects if agreed to prior to expenditure.

  
 J. Charles Fox  
 Assistant Administrator  
 Office of Water  
 U.S. EPA

  
 Ing. Guillermo Guerrero Villalobos  
 Director General  
 National Water Commission  
 SEMARNAP

**COMISION INTERNACIONAL DE LIMITES Y AGUAS  
ENTRE MEXICO Y LOS ESTADOS UNIDOS**

Acta 304

El Paso, Texas, 26 de Octubre de 2000

**PROGRAMA DE INVERSIONES CONJUNTAS PARA PROYECTOS DE  
INFRAESTRUCTURA DE AGUA POTABLE Y DE SANEAMIENTO PARA  
LAS POBLACIONES EN LA FRANJA FRONTERIZA ENTRE MEXICO Y  
ESTADOS UNIDOS.**

La Comisión se reunió en las oficinas de la Sección estadounidense, en El Paso, Texas, a las 13:00 h, el 26 de octubre de 2000, para analizar la intención mutua de la Secretaría del Medio Ambiente, Recursos Naturales y Pesca (SEMARNAP) de México, a través de la Comisión Nacional del Agua (CNA), y de la Agencia de Protección Ambiental de Estados Unidos (EPA), a través de su Oficina del Agua, para coordinar un programa de inversiones conjuntas para proyectos de infraestructura de agua potable y de saneamiento para poblaciones en la franja fronteriza entre México y los Estados Unidos. El análisis evaluó en qué medida este programa complementa los esfuerzos de la Comisión en la aplicación del Artículo 3 del " Tratado sobre distribución de Aguas Internacionales entre los Estados Unidos Mexicanos y los Estados Unidos de America", firmado el 3 de febrero de 1944, referente a la solución de problemas fronterizos de saneamiento, el cual, respecto al uso común de las aguas internacionales, establece el siguiente orden de preferencia: 1) Usos domésticos y municipales, 2) Agricultura y ganadería, 3) Energía eléctrica, 4) Otros usos industriales, 5) Navegación, 6) Pesca y Caza, y 7) Cualesquiera otros usos benéficos determinados por la Comisión.

Los Comisionados observaron la responsabilidad conferida a la Comisión en el Acta 261, intitulada "Recomendaciones para la Solución de los Problemas Fronterizos de Saneamiento", de fecha 24 de septiembre de 1979, sobre dar cumplimiento a la obligación del referido Artículo 3, del Tratado, de dar una atención preferente a los problemas fronterizos de saneamiento, los cuales son definidos por ésta como "cada uno de los casos en que a juicio de la Comisión, las aguas que crucen la frontera, incluyendo las aguas costeras, o escurran por los tramos limítrofes de los Ríos Bravo y Colorado, tengan condiciones sanitarias tales que representen un riesgo para la salud y el bienestar de los habitantes de cualquier lado de la frontera o impidan el uso benéfico de dichas aguas". Asimismo, tomaron nota de la Recomendación 3 del Acta 261, por la cual, "para resolver oportunamente los problemas fronterizos de saneamiento que existen y evitar futuros problemas, las dependencias competentes de cada Gobierno proporcionen a su respectiva Sección de la Comisión la información y el asesoramiento técnico que ésta requiera para ello".

Los Comisionados evaluaron la experiencia adquirida por México y los